

**MINUTES**

**MONTANA SENATE  
56th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON JUDICIARY**

**Call to Order:** By **CHAIRMAN LORENTS GROSFIELD**, on March 22, 1999  
at 10:00 A.M., in Room 325 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Lorents Grosfield, Chairman (R)  
Sen. Al Bishop, Vice Chairman (R)  
Sen. Sue Bartlett (D)  
Sen. Steve Doherty (D)  
Sen. Duane Grimes (R)  
Sen. Mike Halligan (D)  
Sen. Ric Holden (R)  
Sen. Reiny Jabs (R)  
Sen. Walter McNutt (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Judy Keintz, Committee Secretary  
Valencia Lane, Legislative Branch

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 109, HB 257, HB 308, HB  
382, 3/19/1999  
Executive Action: None

**HEARING ON HB 382**

**Sponsor:** REP. SAM ROSE, HD 87, Teton and Cascade Counties

**Proponents:** Mary Phippen, Clerks of District Court  
Laurie Maloney, Clerk of District Court, Butte-  
Silver Bow County

**Opponents:**           None

**Opening Statement by Sponsor:**

**REP. SAM ROSE, HD 87, Teton and Cascade Counties** introduced HB 382 which was requested by the Clerks of Court. It involves the method in which jurors are drawn and placed in the jury pool.

**Proponents' Testimony:**

**Mary Phippen, Clerks of District Court**, presented her written testimony, **EXHIBIT(jus64a01)**.

**Laurie Maloney, Clerk of District Court, Butte-Silver Bow County**, requested that the changes be made due to a challenge as to how jurors were drawn and placed into the jury pool.

**Opponents' Testimony:**

None

**Questions from Committee Members and Responses:**

None

*{Tape : 1; Side : A; Approx. Time Counter : 10.08}*

**Closing by Sponsor:**

**REP. ROSE** summarized that the amendments were needed and necessary in order to eliminate the confusion in interpretation and to allow conformity.

*{Tape : 1; Side : A; Approx. Time Counter : 10.10}*

**HEARING ON HB 109**

**Sponsor:**           **REP. JOHN MERCER, HD 74, Polson**

**Proponents:**       **Attorney General Joe Mazurek**  
                          **Jim Opedahl, Administrator of the Gambling Control**  
                                  **Division of the Department of Justice**  
                          **Larry Epstein, Chairman of the Gaming Advisory**  
                                  **Council**  
                          **Mick Robinson, Governor's Office**  
                          **Mark Staples, Montana Tavern Association**  
                          **Dennis Casey, Gaming Industry Association**

**Jerry Driscoll, Montana Independent Machine  
Operators Association  
Ronna Alexander, Power House Technologies  
Rhonda Carpenter, Montana Coin Machine Operators  
Association**

**Opponents: Sharon Hoff, Montana Catholic Conference  
Betty Waddell, Montana Association of Churches  
Ellen Engstedt, Don't Gamble with the Future  
Verner Bertelsen, Montana Senior Citizens  
Association**

**Opening Statement by Sponsor:**

**REP. JOHN MERCER, HD 74, Polson,** introduced HB 109 which is referred to as the dial-up bill. It will create an automated accounting and reporting system for video gaming machines. This is something the legislature has been trying to address for a number of sessions.

When Montana started in the automated gaming business, automated accounting and reporting was not set into place. As a result, each machine is a separate taxing entity. This is all reported on paper and is a very out-of-date system. This bill is voluntary in nature. There is a tax credit of \$250 as an incentive to those using this system. Loans will be provided to help people make the changeover. The state will save time, trouble and effort with automated reporting. The cost of making this change is paid for by the gaming licenses taxes that are paid by the gaming machine owners.

There is a small provision that allows for an existing keno and poker machine to have a switch which would allow a single machine to play either game. Some argue that this is an expansion of gaming.

***{Tape : 1; Side : A; Approx. Time Counter : 10.13}***

**Proponents' Testimony:**

**Attorney General Joe Mazurek** rose in support of HB 109. He thanked representatives of the gaming industry who all had a hand in shaping this bill. The Gaming Advisory Council has studied this issue and unanimously endorsed the legislation. This reflects an agreement between regulators and the industry.

He has confidence that this voluntary measure will result in 70% compliance. Last session 60% of the owners of machines in the state were willing to connect to a voluntary system. This system

provides efficiency, elimination of record keeping requirements, and added accuracy. A bill will be sent to machine operators every quarter based on readings taken from the machines. The operators would simply pay their tax and not file paper returns. Tapes would need to be kept for only a short period of time. There is a \$250 tax credit available during a two year window. It will encourage people to switch to this more efficient system.

The multi-game box aspect is simply an advancement in technology and allows machine owners to have a keno machine and a poker machine in the same box. This should help the owners in small establishments and may result in a decrease in machines.

***{Tape : 1; Side : A; Approx. Time Counter : 10.18}***

**Jim Opedahl, Administrator of the Gambling Control Division of the Department of Justice**, remarked that very little automation has touched the world of video gambling accounting and reporting. It is sorely needed for both the state agency responsible for regulation as well as the video gambling operator. There are about 18,000 video gambling permits issued each year in 1700 locations across the state. In FY98, there was close to \$600 million wagered in those machines. The state collected close to \$40 million in taxes. His office receives approximately 70,000 quarterly reports a year. They store these reports for only three years due to lack of storage. Every time a machine is serviced or has a problem, the operator is responsible for turning in a service report. In FY96, there were 51 feet of paper used for the service reports. There are approximately 600,000 to 900,000 audit rolls in storage in the state at any one time. Operators are required to keep the audit rolls for a three year period. These rolls are audited manually.

He provided three handouts: General Components of an Automated Accounting and Reporting System, **EXHIBIT(jus64a02)**, Department of Justice overview of the Automated Accounting and Reporting System, **EXHIBIT(jus64a03)**, and The Gambling Control Division Biennial Report for FY97 and FY 98, **EXHIBIT(jus64a04)**.

**Larry Epstein, Chairman of the Gaming Advisory Council**, rose in support of HB 109. Besides legislative members, the Council has representatives from the public at large, local government, and the gambling industry. They study the administration of gambling laws and recommend improvements to the Attorney General and the Legislature. He added that there is a broad consensus that the time has arrived to automate the accounting and reporting functions of the Gambling Control Division and the video gambling machine operators.

**Mick Robinson, Governor's Office**, rose in support of HB 109.

*{Tape : 1; Side : A; Approx. Time Counter : 10.27}*

**Mark Staples, Montana Tavern Association**, remarked that it is important that this be voluntary in nature. This is an expensive proposition and will be the first changeover of midstream gaming regulation. Some people will not be able to afford the changes. The least expensive and most effective system will be negotiated. Each machine must be converted if it can be converted. The estimates they have received are from \$400 to \$800 a machine. By keeping this voluntary, the bidding process will be competitive. The conversion and machine kits will need to be kept competitive to arrive at the 70% commitment.

The tax credits are for \$250 per machine. The least expensive bid on the conversion kits is between \$600 and \$800 and it could be higher. The industry is mostly composed of small bars and taverns with an average of eight or nine machines. These businesses are run by families. The growth in the industry has more than provided enough funds to cover the tax credits without robbing the General Fund. The fiscal note states that \$750,000 will be found by the efficiencies of the system. It is necessary to sign up for this system within the next two years to receive the tax credits.

The chip which changes one feature in a machine, does not provide any more machines, players, or games. Perhaps the small owner can reduce the number of machines because patrons can wait to play the same machine.

*{Tape : 1; Side : A; Approx. Time Counter : 10.37}*

**Dennis Casey, Gaming Industry Association**, rose in support of HB 109.

**Jerry Driscoll, Montana Independent Machine Operators Association**, remarked that its largest member has committed to signing up all its machines if the cost is reasonable.

**Ronna Alexander, Power House Technologies**, commented that they manufacture video gaming machines. Their headquarters are in Bozeman and they employ approximately 350 people. They offer a commitment of their machines to the online system when it is in place.

**Rhonda Carpenter, Montana Coin Machine Operators Association**, stated that they are the route operators in this industry. They fully support the system.

**{Tape : 1; Side : A; Approx. Time Counter : 10.39}**

**Opponents' Testimony:**

**Sharon Hoff, Montana Catholic Conference**, raised a concern about the social impacts of gaming on communities. As gaming increases, they see higher incidents of problem and impulsive gamblers. They do see the multi-game cabinet as an expansion of gambling. It could keep people at the gambling machine longer. They are also concerned with the tax credits since this is not a mandatory system.

**Betty Waddell, Montana Association of Churches**, provided their position paper, **EXHIBIT(jus64a05)**. She questioned why this system is voluntary. She could not think of a single industry that is allowed voluntary inclusion on controls. Do we ask that only 70% of refineries have air quality control? Are we only asking 70% of the drivers to adhere to the speed limit? Every one of us needs to pay taxes, not just 70% of us.

There are several machines in this state that are processing more than \$100,000 a year. The gambling industry is in control of which machines will be placed on the automated system. Will the machines bringing in around \$6,000 a year be the only ones on this system?

**{Tape : 1; Side : B; Approx. Time Counter : 10.45}**

Why are we providing tax credits to an industry that does not provide decent wages? In a recent Legislative report, the average annual income for gambling firm employees, based on a 51 week work year, was \$9,600. This is far below poverty level. Of the 16,300 workers employed in gambling establishments, most are working in restaurants, gasoline services, or bars. The study estimates that only 3,700 workers have anything to do with video machines.

Why are we providing tax credits to an industry that brings with it a high social cost of addiction and crime. An estimated 23,400 Montanans are currently problem gamblers. If only 6% sought treatment, the cost of out patient treatment would be \$560,000 a year.

A statewide \$1 million increase in video gambling machine expenditures would be associated with 17 more burglaries, 78 more larcenies, 25 more DUIs, 43 more acts of vandalism, 6 to 7 more weapon offenses and one or two more robberies. Is the \$34

million in taxes enough to pay for the extra police, judges, prison cells, therapy, family poverty, marriage dissolutions, and other costs associated with gambling in Montana?

Why are we providing tax credits to an industry that already has the best deal in the nation in terms of actual taxes paid? The 15% tax is the lowest in the nation.

She further added that **REP. MERCER** stated that those of us who disagreed with his bill were first in line to ask for the money from the taxes. She declared that they have never done so. She has talked to mayors and county commissioners about the growing addiction in local governments with using gambling money. They are being encouraged not to use the tax money for operating expenses and suggested these funds be used for buildings, parks, etc., which are things they can live without.

The multi game package will increase gambling in this state with more people putting money in these machines. The \$600 million that is wagered in Montana is wagered by Montanans. This amounts to \$700 for every man, woman, and child in this state. Instead of going to family needs, this money is going through machines.

The 18,000 machines in use in the state multiplied by the \$250 tax credit amounts to \$4.6 million. This is an awful lot of tax credit.

**Ellen Engstedt, Don't Gamble with the Future**, presented her written testimony, **EXHIBIT(jus64a06)**.

**Verner Bertelsen, Montana Senior Citizens Association**, remarked that originally they were a proponent of the bill because they saw the possibility of changes in the bill. At this point, it is going through without any variation. There are some provisions in the bill that are not proper and should be changed. They strongly supported the bill that placed a time limit on when the conversion needs to take place. Gambling is a serious problem for Montana and we had better take control of the gambling industry and not let them take control of the state.

**{Tape : 1; Side : B; Approx. Time Counter : 11.03}**

**Questions from Committee Members and Responses:**

**SEN. HALLIGAN** asked whether the 70% compliance involved that 100% of the machines within an establishment were in compliance. With only 70% compliance within an establishment, the owner could leave out the machine that was the highest producing machine.

**Mr. Opedahl** responded that this included 70% of the machines that

can be upgraded. This is about 10,300 machines. There could be 70% of the machines in an established in compliance. The assumption is that the ones which will not be hooked up are the ones that it would be economically difficult to hook up to the system.

**CHAIRMAN GROSFIELD** questioned the percentage of machines within an establishment that needed to be on the system. **Mr. Opedahl** explained that the percentage is 70% of the machines on a statewide basis. This could mean that an establishment could have no machines on the system or all of them on the system.

**Mr. Staples** maintained that the establishments which have 20 machines will be the establishments that will be on the system. The machine owner with only eight or nine machines may only be able to afford placing four or five on the system. The premise that the high volume machine would not be hooked up is contrary to any experience they have had. That suggests a huge evidence of cheating out there. The taxes are currently being paid. The question is whether we will be electronically monitoring for efficiency. The high volume machine would be the newer machine. It would be the machine that is more player friendly and would be one of the first to be converted because it would be the least expensive to convert.

**CHAIRMAN GROSFIELD** questioned whether the industry might support an amendment that establishments would have to convert all machines if they were to convert any of the machines in the establishment. This would allow that all machines in an establishment which are able to be upgraded would in fact be upgraded. **Mr. Staples** insisted that some people would not be able to afford this. The 70% commitment will give the state plenty to work on for the next two years. The conversion could not take place any faster than that anyway.

**SEN. JABS** questioned whether the new machines needed to be on the system or whether that was optional. **Mr. Opedahl** responded that after January 1, 2001, all new machines manufactured for the Montana market must have the capability of being on the dial-up system. New owners who have bought an establishment will have some period of time for the transition to the system. A brand new owner must be on the system.

**SEN. JABS** inquired whether the new machines would be eligible for a tax credit. **Mr. Opedahl** explained that the machines which are eligible for the tax credit need to be on the roll as of December 31, 2000.



**SEN. DOHERTY** remarked that the fiscal note appeared to show that the \$1.5 million hit to the General Fund was included in the Governor's Budget. **Mr. Robinson** affirmed that it was included in the budget.

**SEN. DOHERTY** asked how local governments were to be made whole if this bill were adopted. **Mr. Opedahl** responded that there is a net gain of \$1.2 million each year. The \$2.5 million in tax credit is limited over a three year period. Local governments and the state each have a share in the cost of the tax credit. Two-thirds goes to the local government and one-third goes to the General Fund. The net after the three-year period is an increase of approximately \$1.2 million per year to state and local governments.

**SEN. DOHERTY** maintained that according to the fiscal note, in the year 2002 local governments will receive \$1.7 million less in distributions but they will gain \$750,000, or a net loss of \$968,000. How will local governments be held harmless by adoption of this bill? **Mr. Opedahl** explained that the tax credit impacts both the state and local governments. This tax credit for a three-year period would be \$2.5 million to \$3.6 million.

**Mr. Staples** explained that the growth has not been factored into the fiscal note. We have never had zero growth. The League of Cities and Towns believes that the investment over the short term is worth what the fiscal note claims is a \$1.2 million benefit in each year following. Local governments usually budget for a 3% growth in the gambling industry and this has averaged between 5% to 8%.

**REP. MERCER** maintained that the \$1.7 million credit is a one-time hit. Thereafter, there will be an additional \$750,000 annually due to efficiencies in the system.

**SEN. HOLDEN** remarked that in the 1995 and 1997 Legislative Sessions this issue was addressed based on the fraud aspect. The fraud aspect was not proven so he questioned the need for this process of reporting. **Attorney General Mazurek** clarified that the Legislative Auditor told the Legislature that the biggest problem in the industry was that when auditing, the backup information was not available to verify the information which had been filed. They recommended that either 23 new auditors be added or the system be automated. They have since contracted with private CPAs and the problem remains. Fraud was not alleged. Every machine is a separate taxpayer and its records are kept for five years. There are many mistakes and record keeping violations due to the pencil and paper returns that are filed. If 70% of the machines are hooked up, the audits will be

focused on fewer machines and perhaps regular audits will be more likely to be successful.

**SEN. HOLDEN** questioned what the taxpayer had to gain from this system. **Attorney General Mazurek** explained that the funding for the system is coming from fees paid by the gambling industry that have been paid to the Department of Justice. They have not had authority to spend these fees. This is the only industry he is aware of that is allowed to exist by the grace of the Legislature and the people of this state. Voluntarily, most cash registers are hooked up to electronic credit card machines. This is similar.

*{Tape : 2; Side : A; Approx. Time Counter : 11.23}*

**SEN. GRIMES** asked if it was pretty clear which machines could be upgraded and which could not. **Mr. Opedahl** responded that it is pretty clear on some that technologically nothing can be done to upgrade that machine. There is a small area where this will be determined dependent on cost. If the cost of upgrading is \$3,000, this would not be economically feasible.

**SEN. GRIMES** further remarked that in the past there have been agreements because all parties reached a consensus. In this case, a future legislature could come back and change the parameters or circumstances so that a time frame could be mandated, etc. He questioned whether the sponsor shared this understanding. **REP. MERCER** remarked that everything in the gambling industry is up in the air as far as the legislature is concerned. There may be some Constitutional protection for taking of private property. The initiative process would also be another manner in which the laws could be changed.

*{Tape : 2; Side : A; Approx. Time Counter : 11.28}*

**Closing by Sponsor:**

**REP. MERCER** closed on HB 109. This system is voluntary in nature. Sometimes it is good not to have government cram things down people's throat. These chips could have been placed in the machines from the beginning. State government did not want these chips. There are a number of tax deductions and credits allowed for environmental processes to comply with state laws. Currently, the Department of Justice would need 25 additional FTEs to go through the paperwork. He is very much against gambling and feels that it is a tax on stupidity. However, it is voluntary in nature. Of the \$36 million brought in on taxes last year, \$24 million went to local government and \$10 million went

to the state. This money funds schools, human service programs, tax relief, etc.

*{Tape : 2; Side : A; Approx. Time Counter : 11.35}*

HEARING ON HB 308

Sponsor: REP. TONI HAGENER, HD 90, Havre

Proponents: None

Opponents: None

Opening Statement by Sponsor:

REP. TONI HAGENER, HD 90, Havre, introduced HB 308 which refers to the bankruptcy section of law. It involves one change on line 16 which raises the excluded limit for bankruptcy on an automobile from \$1,200 to \$2,500. Bankruptcy laws are predominantly established by the federal government but do allow some leniency to states to establish limits. This limit was set 10 years ago and has not kept up with inflationary costs. A person declaring bankruptcy still has a need for transportation for any number of purposes.

Proponents' Testimony: None

Opponents' Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

REP. HAGENER closed on HB 308.

*{Tape : 2; Side : A; Approx. Time Counter : 11.37}*

HEARING ON HB 257

Sponsor: REP. CINDY YOUNKIN, HD 28, Bozeman

Proponents: Gloria Edwards, Victim Witness Program Director  
for Gallatin County  
Bill Dutton, Victim  
Janet Swenson, Victim's Mother  
Anita Richards, Victim  
Tamara Bailey Laib, Victim

**John Parker, Victim's Witness Coordinator, Fergus  
County Attorney's Office**  
**Rebecca Bey, Yellowstone County Attorney**  
**Dennis Paxinos, Yellowstone County Attorney**  
**John Connor, Department of Justice and the Montana  
County Attorneys Association**  
**Gene Kizer, Montana Board of Crime Control**  
**Charles Brooks, Yellowstone County Commissioners**  
**Mona Jamison, representing Gallatin County**

**Opponents:**        **None**

**Opening Statement by Sponsor:**

**REP. CINDY YOUNKIN, HD 28, Bozeman,** introduced HB 257 which would impose a \$10 surcharge on each convicted felon or misdemeanant, excluding most traffic and Fish and Game offenses. It would apply to all crimes in Title 45 and DUIs. In Gallatin County last year, the Victim and Witnesses Advocate assisted nearly 500 victims and witnesses. Attorneys are paid much more than advocates and their time is much better spent in prosecuting cases rather than advocating for victims and witnesses. The advocate positions are currently funded with county general funds, Board of Crime Control funds, and federal funds. Victims and witnesses did not ask to be placed in these very difficult situations and their rights should be addressed. It is time that the defendants who created the problem should contribute to its solution.

**Proponents' Testimony:**

**Gloria Edwards, Victim Witness Program Director for Gallatin County,** presented her written testimony, **EXHIBIT(jus64a07)**.

**Bill Dutton, Victim,** explained that he was a victim of an armed robbery. A gentleman walked into his home at 5:30 a.m., pointed a gun to his head and said he would kill him if he didn't do as he was told. He knew that the person was either on drugs or alcohol and believed he could be shot at any second. He was defenseless and had no place to go. He was able to testify in court against this person. As a victim, he did not understand the rights he had. He has found out that he does have rights to know where the gentleman is at, what he is doing, testify at his parole hearings, etc. As a victim, this is very important. The Victims and Witnesses Advocate Program is very important. Ten dollars seem a very small amount for these people to pay. This should be \$50 to \$100. This is only paid by the people who commit the crimes.

**{Tape : 2; Side : A; Approx. Time Counter : 11.45}**

**Janet Swenson, Victim's Mother**, commented that in 1984, her daughter Kari was kidnaped by two men who kept her captive over night. During the rescue the next day, the perpetrators killed Allen Goldstein, shot Kari in the chest, and then escaped into the mountains. Kari was fortunate to have survived. This was a high profile case. When the criminals were caught, there were no victim's witness programs to inform them of their rights. Consequently, they learned from the news media such things as the arraignment dates, who was chosen as defense attorneys, who the prosecutor would be, etc. The Madison County Sheriff credited with capturing the fugitives was pursuing book and movie contracts. The prosecuting attorney was representing the interests in the book and movies for the sheriff. They told him that they thought this was a conflict of interest and were told he had spoken to the defense attorneys and they didn't see any problem. He also informed them that the defense attorneys requested that Kari be alone for her deposition. They did not want her parents or anyone else with her. They refused the request and insisted on accompanying her.

A local attorney urged them to hire someone to protect Kari's rights. They were shocked to realize that the defendants had attorneys provided at taxpayer expenses and the state was represented but there was no one protecting the interests of the victim. They were forced to hire an attorney to provide the advice and support that is now given by the Victim's Witness Services in their county.

All the attorneys, the sheriff, and judge continued to be interviewed by the press which violated the gag order that the judge had set down at the arraignment. No court reporter was present at the interview by the defense attorneys so there was no verbatim transcript and Kari was asked to sign a transcript in which words and entire sentences were left out. The prosecution's transcript also contained blanks. They asked the Attorney General to make a ruling on the issue. The prosecuting attorney was removed from the case and Marc Racicot, a Special Prosecutor at the Attorney General's Office, was appointed to the case. Their luck changed after his appointment. He, Judy Browning and John Connor took on the roles of victim's advocate. They guided them through two trials, protected Kari from the media, fought to keep cameras out of the courtroom and made sure that Kari was allowed to testify at the sentencing hearings. Those three attorneys observed the problems, terror, anger and helplessness of the victim and the victim's family and began to put together the infrastructure for the Victim's Witness Advocate Programs.

**Anita Richards, Victim**, presented her written testimony, **EXHIBIT(jus64a08)**.

**Tamara Bailey Laib, Victim**, presented her written testimony, **EXHIBIT(jus64a09)**.

**John Parker, Victim's Witness Coordinator, Fergus County Attorney's Office**, presented his written testimony, **EXHIBIT(jus64a10)**.

**Rebecca Bey, Yellowstone County Attorney**, rose in support of HB 257. They have helped over 3,000 victims and witnesses last year. It is time that the criminals who put victims in the system take responsibility for their actions.

**Dennis Paxinos, Yellowstone County Attorney**, remarked that the legislature is imposing unfunded mandates on the urban areas. They now have seven victim's assistants and no method of paying for them. They are all on grants and the grants are sun setting. The \$10 surcharge should be raised to \$50 or \$100. The \$10 surcharge will only generate \$8,000 for Yellowstone County. He asked that the language pertaining to charges collected by justice courts be eliminated. All the money needs to stay with the county and city treasurers.

**John Connor, Department of Justice and the Montana County Attorneys Association**, rose in support of HB 257.

**Gene Kizer, Montana Board of Crime Control**, rose in support of HB 257. He provided a list of crime victim programs, **EXHIBIT(jus64a11)**. There are 21 programs and nine of those programs have one more year of funding.

**Charles Brooks, Yellowstone County Commissioners**, rose in support of HB 257.

**Mona Jamison, representing Gallatin County**, rose in support of this bill. Her Helena home was burglarized. She found out that the offender had been arrested and the final disposition of what had occurred on the radio. The system is a maze. This surcharge is necessary for the offender to help pay for the services for the people that they traumatize.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**SEN. HALLIGAN** asked the sponsor if she had looked at expanding (a) on page 1, line 19. **REP. YOUNKIN** stated that she would not be opposed to that amendment.

**SEN. HALLIGAN** questioned the problems the justices of the peace viewed with allocating fines and surcharges. **Robert Throssell, Montana Magistrates Association**, explained that after the surcharges are taken out, any restitution is then paid, and the fine is split 50/50 between the city and the state. The one dollar is an administrative fee for processing the surcharge.

**SEN. DOHERTY** remarked that this \$10 would probably be collected for DUIs but most felons are impoverished and will not pay this surcharge. **REP. YOUNKIN** recognized that a significant number of felons do not have the resources sufficient to pay this surcharge. This needs to start somewhere. The reason this does not apply to all misdemeanors is that everyone who had a traffic offense would need to pay the surcharge. Most traffic offenses are victimless. DUIs are not victimless.

**SEN. DOHERTY** asked for the number of DUIs in the state on an annual basis. **REP. YOUNKIN** agreed to provide this information.

*{Tape : 2; Side : A; Approx. Time Counter : 12.05}*

**Closing by Sponsor:**

**REP. YOUNKIN** closed on HB 257. She would not be opposed to a broader or higher fine. The main reason for the legislation is to have those that create the need be expected to contribute to paying for the need.

**ADJOURNMENT**

Adjournment: 12:05 A.M.

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SEN. LORENTS GROSFIELD, Chairman

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JUDY KEINTZ, Secretary

LG/JK

**EXHIBIT** (jus64aad)